

CRE.8243

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

JOHN DUCA

v.

**C R ENGLAND, INC. and ANTHONY
PERMODA**

§
§
§
§
§
§

**C. A. NO. _____
JURY**

INDEX OF PLEADINGS FILED IN THE STATE COURT ACTION

TO THE UNITED STATES DISTRICT CLERK:

Pursuant to 28 U.S.C. § 1447(b), attached hereto are complete true and correct copies of
all documents filed in the state court action:

Respectfully Submitted,

/s/ Michael P. Sharp

MICHAEL P. SHARP

State Bar No. 00788857

msharp@feesmith.com

JASON A. BURRIS

State Bar No. 24049591

jburris@feesmith.com

Fee, Smith, Sharp & Vitullo, L.L.P.

Three Galleria Tower

13155 Noel Road, Suite 1000

Dallas, Texas 75240

(972) 934-9100

(972) 934-9200 [FAX]

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of February, 2017, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing. Based on the electronic records currently on file, the Clerk of the Court will transmit a Notice of Electronic Filing to the following ECF registrants:

G. David Smith
Ryan K. Lee
Smith & Lee, Lawyers
70 N. Goliad
Rockwall, TX 75087
david@smithandlee.com
ryan@smithandlee.com

/s/ Michael P. Sharp

MICHAEL P. SHARP

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01/30/17	Citation for Service on Defendant C.R. England, Inc.
01/18/17	Civil Case Information Sheet
01/13/17	Plaintiff's Original Petition

Case Information

DC-17-00575 | JOHN DUCA vs. C R ENGLAND, INC., et al

Case Number	Court	File Date
DC-17-00575	101st District Court	01/13/2017
Case Type	Case Status	
MOTOR VEHICLE ACCIDENT	OPEN	

Party

PLAINTIFF	Active Attorneys ▼
DUCA, JOHN	Lead Attorney
Address	LEE, RYAN K.
851 SUNSET HILL	Retained
ROCKWALL TX 75087	Work Phone
	972-771-2579
	Fax Phone
	972-771-0513
	Attorney
	SMITH, G DAVID
	Retained
	Work Phone
	972-771-2579
	Fax Phone
	972-771-0513

DEFENDANT

C R ENGLAND, INC.

Address

BY SERVING REGISTERED AGENT: CT CORPORATION SYSTEM
1999 BRYAN ST.
SUITE 900
DALLAS TX 75201-3136

Active Attorneys ▼

Lead Attorney

SHARP, MICHAEL PAUL

Retained

Work Phone

972-934-9100

Fax Phone

972-934-9200

DEFENDANT

PERMODA, ANTHONY

Address

3966 YORKLAND DR.
NW 7
COMSTOCK PARK MI 49321

Active Attorneys ▼

Lead Attorney

SHARP, MICHAEL PAUL

Retained

Work Phone

972-934-9100

Fax Phone

972-934-9200

Events and Hearings

01/13/2017 NEW CASE FILED (OCA) - CIVIL

01/13/2017 ORIGINAL PETITION ▼

ORIGINAL PETITION.pdf

01/13/2017 ISSUE CITATION ▼

ISSUE CITATION

Comment

ATTORNEY IS PICKING UP.

01/13/2017 ISSUE CITATION COMM OF INS OR SOS ▼

ISSUE CITATION COMM OF INS OR SOS

Comment

9214 8901 0661 5400 0102 0463 84 COH

01/18/2017 CASE FILING COVER SHEET ▼

810CivilCaseInfoSheet.pdf

01/30/2017 NOTE - CLERKS ▼

Comment

FORWARDED COH REQUEST TO DOCUMENT PRODUCTION. -DTH

01/30/2017 CITATION ▼

Anticipated Server

ATTORNEY

Anticipated Method

01/31/2017 CITATION SOS/COI/COH/HAG ▼

Anticipated Server

CERTIFIED MAIL

Anticipated Method

Actual Server

CERTIFIED MAIL

Returned

02/20/2017

Comment

CERT MAIL KK

02/09/2017 ORIGINAL ANSWER - GENERAL DENIAL ▼

C.R. England, Inc.'s Original Answer (2-8-17).pdf

Comment

& JURY DEMAND

02/09/2017 JURY DEMAND

02/20/2017 RETURN OF SERVICE ▼

ANTHONY

Comment

CIT EXEC 2/6/17 (ANTHONY JAMES PERMODA) CERT MAIL

02/22/2017 ORIGINAL ANSWER - GENERAL DENIAL ▼

Original Answer - General Denial

01/23/2018 Jury Trial - Civil ▼

101st Jury Trial Notice 1

101st Jury Trial Notice 1

101st Jury Trial Notice 1

Judicial Officer

WILLIAMS, STACI

Hearing Time

9:00 AM

Financial

DUCA, JOHN

Total Financial Assessment \$401.70

Total Payments and Credits \$401.70

1/18/2017 Transaction Assessment \$401.70

1/18/2017	CREDIT CARD - TEXFILE (DC)	Receipt # 3186-2017-DCLK	DUCA, JOHN	(\$401.70)
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C R ENGLAND, INC.

Total Financial Assessment \$40.00

Total Payments and Credits \$40.00

2/9/2017 Transaction Assessment \$40.00

2/9/2017	CREDIT CARD - TEXFILE (DC)	Receipt # 8297-2017-DCLK	C R ENGLAND, INC.	(\$40.00)
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Documents

ORIGINAL PETITION.pdf

810CivilCaseInfoSheet.pdf

ISSUE CITATION

ISSUE CITATION COMM OF INS OR SOS

C.R. England, Inc.'s Original Answer (2-8-17).pdf

101st Jury Trial Notice 1

101st Jury Trial Notice 1

101st Jury Trial Notice 1

ANTHONY

Original Answer - General Denial

CRE.8243

CAUSE NO. DC-17-00575

JOHN DUCA

v.

**C R ENGLAND, INC. and ANTHONY
PERMODA**

§ **IN THE DISTRICT COURT**
§
§ **101st JUDICIAL DISTRICT**
§
§
§ **DALLAS COUNTY, TEXAS**

DEFENDANT ANTHONY PERMODA'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW **ANTHONY PERMODA**, Defendant named in the above entitled and numbered cause, and files this his Original Answer, and for same would respectfully show unto the Court as follows:

I.

GENERAL DENIAL

Defendant denies each and every, all and singular, the material allegations contained within Plaintiff's pleadings and demands strict proof thereof.

II.

SECTION 18.091

Defendant invokes Section 18.091 of the Texas Civil Practice and Remedies Code. To the extent Plaintiff seeks recovery for loss of earnings, loss of earning capacity, loss of contributions of a pecuniary value or loss of inheritance, the evidence to prove such loss must be presented in the form of net loss after reduction of income tax payments or unpaid tax liability. Defendant further requests the court to instruct the jury as to whether any recovery for compensatory damages sought by Plaintiff is subject to federal or state income taxes.

III.

SECTION 41.0105

Defendant invokes Section 41.0105 of the Texas Civil Practice and Remedies Code. To the extent Plaintiff seeks recovery of medical or healthcare expenses incurred, the evidence to prove such loss must be limited to the amount actually paid or incurred by or on behalf of Plaintiff. Defendant further requests the court to instruct the jury as to whether any recovery for medical or healthcare expenses sought by Plaintiff is limited to the amount actually paid or incurred by or on behalf of Plaintiff.

IV.

AFFIRMATIVE DEFENSES

Prior and/or Subsequent Injuries

Further answering, if same be necessary, and without waiving any of the matters hereinabove asserted, Defendant would show that Plaintiff's claims of physical and/or mental ailments in this cause were, in whole or in part, proximately caused solely and/or proximately by prior and/or subsequent accidents, events, or occurrences.

V.

JURY DEMAND

In accordance with Rule 216 of the Texas Rules of Civil Procedure, Defendant demands a trial by jury.

WHEREFORE, PREMISES CONSIDERED, Defendant **ANTHONY PERMODA** prays that the Plaintiff take nothing by this suit, that Defendant go hence with his costs without

delay, and for such other and further relief, both general and special, at law and in equity, to which Defendant may show himself justly entitled.

Respectfully submitted,

FEE, SMITH, SHARP & VITULLO, L.L.P

/s/ Michael P. Sharp

MICHAEL P. SHARP

State Bar No. 00788857

msharp@feesmith.com

JASON A. BURRIS

State Bar No. 24049591

jburris@feesmith.com

Three Galleria Tower

13155 Noel Road, Suite 1000

Dallas, TX 75240

(972) 934-9100

(972) 934-9200 (Fax)

ATTORNEYS FOR DEFENDANTS

C.R. ENGLAND, INC. AND

ANTHONY PERMODA

CERTIFICATE OF SERVICE

THIS WILL CERTIFY that a true and correct copy of the foregoing instrument has been mailed, telecopied or hand delivered to all attorneys of record in this cause of action on the 22nd day of February, 2017 as follows:

Via www.efile.txcourts.gov

G. David Smith

Ryan K. Lee

Smith & Lee, Lawyers

70 N. Goliad

Rockwall, TX 75087

/s/ Michael P. Sharp

MICHAEL P. SHARP

OFFICER'S RETURN
FOR INDIVIDUALS

FILED

17 FEB 20 AM 8:24

Cause No. DC-17-00575

Court No: 101st District Court

Style: JOHN DUCA

vs.

C R ENGLAND, INC., et al

FELICIA PITRE
DISTRICT CLERK
DALLAS COUNTY, TEXAS
DEPUTY

Received this Citation the _____ day of _____, 20____ at _____ o'clock. Executed at _____, within the County of _____, State of _____, on the _____ day of _____, 20____, at _____ o'clock, by _____ delivering to the within named _____ each in person, a copy of this Citation together with the accompanying copy of Plaintiff's original petition, having first indorsed on same the date of delivery.

-----000000-----

OFFICER'S RETURN
FOR CORPORATIONS

Received this Citation the 31st day of JANUARY, 2017 at 2:15 o'clock P.M. Executed at Austin Tx 78701, within the County of _____, State of Texas, on the 6th day of February, 2017, at 7:06 o'clock A.M. by summoning the within named Corporation, _____ by delivering to Anthony James Permade by serving the Chairman of the Texas Transportation Commission by US Certified MAIL Receipt Received and signed by Randall Tod a true copy of this citation together with the accompanying copy of Plaintiff's original petition, having first indorsed on same the date of delivery.

-----000000-----

The distance actually traveled by me in serving such process was _____ miles and my fees are as follows:

For Serving Citation \$ 76.00
For Mileage \$ _____
For Notary \$ _____
Total Fees \$ _____

Sheriff _____
County of _____
State of _____
By Kerry Kallie

To certify which witness by my hand.

FELICIA PITRE
DISTRICT CLERK
600 COMMERCE STREET
DALLAS, TEXAS 75202-4606

(Must be verified if served outside the State of Texas)

State of _____
County of _____

Signed and sworn to me by the said _____ before me this _____ day of _____, 20____, to certify which witness my hand and seal of office.

Seal

State & County of _____

FORM NO. 353-4—CITATION
~~THE STATE OF TEXAS~~

To: ANTHONY JAMES PERMODA
BY SERVING THE CHAIRMAN OF THE TEXAS TRANSPORTATION COMMISSION
125 E 11TH STREET
AUSTIN TX 78701-2483

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Your answer should be addressed to the clerk of the **101st District Court** at 600 Commerce Street, Dallas, Texas 75202.

Said PLAINTIFF being JOHN DUCA

Filed in said Court 13th day of January, 2017 against

C R ENGLAND, INC. AND ANTHONY PERMODA

For suit, said suit being numbered **DC-17-00575** the nature of which demand is as follows:

Suit On **MOTOR VEHICLE ACCIDENT** etc.

as shown on said petition **REQUEST FOR DISCLOSURE**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

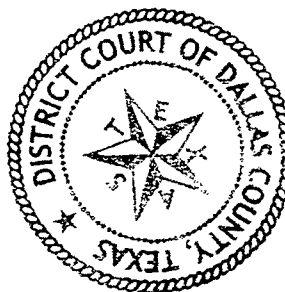
WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.

Given under my hand and the Seal of said Court at office on **this the 31st day of January, 2017**

ATTEST: FELICIA PITRE

Clerk of the District Courts of Dallas, County, Texas

By Kerry Kallie, Deputy
KERRY KALLIE



CERT MAIL (COH)

CITATION

No.: DC-17-00575

JOHN DUCA
VS.
C R ENGLAND, INC., ET AL

ISSUED
ON THIS THE 31ST DAY OF JANUARY,
2017

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By KERRY KALLIE, Deputy

Attorney for : Plaintiff
RYAN K. LEE
702 N GOLIAD
ROCKWALL TX 75087
972 771-2579

DALLAS COUNTY CONSTABLE
FEES PAID **FEES NOT PAID**

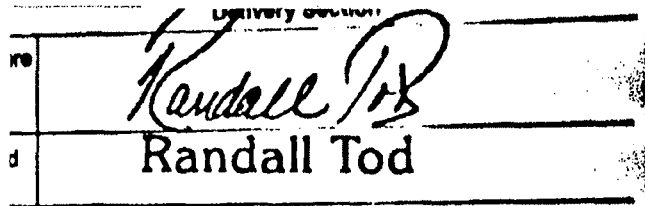


Date: February 13, 2017

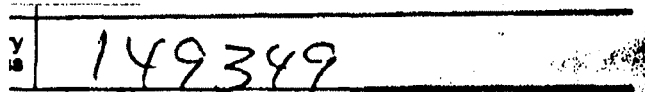
MAIL MAIL:

The following is in response to your February 13, 2017 request for delivery information on your Certified Mail™/RRE item number 92148901066154000102046384. The delivery record shows that this item was delivered on February 6, 2017 at 7:06 am in AUSTIN, TX 78714. The scanned image of the recipient information is provided below.

Signature of Recipient :



Address of Recipient :



Thank you for selecting the Postal Service for your mailing needs.

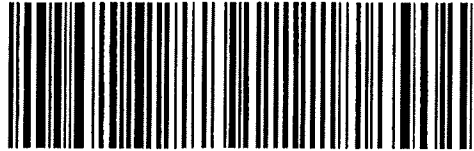
If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,
United States Postal Service

The customer reference information shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Reference ID: 92148901066154000102046384
DC1700575 DPRO KK
ANTHONY JAMES PERMODA
BY SERVING THE CHAIRMAN OF THE TEXAS TRANSPORTATION
COMMISSION
125 E 11th St
Austin, TX 78701-2409

FELICIA PITRE
DISTRICT CLERK
GEORGE L ALLEN SR COURT BLDG
600 COMMERCE ST STE 103
DALLAS, TX 75202-4689



9214 8901 0661 5400 0102 0463 84

RETURN RECEIPT (ELECTRONIC)

DC1700575 DPRO KK

ANTHONY JAMES PERMODA
BY SERVING THE CHAIRMAN OF THE TEXAS
TRANSPORTATION COMMISSION
125 E 11TH ST
AUSTIN, TX 78701-2409

.....
CUT / FOLD HERE

.....
6"x9" ENVELOPE
CUT / FOLD HERE

.....
CUT / FOLD HERE



101ST DISTRICT COURT
GEORGE L. ALLEN, SR. COURTS BUILDING
600 COMMERCE STREET
DALLAS, TEXAS 75202-4604

February 14, 2017

ANTHONY PERMODA
3966 YORKLAND DR
NW 7
COMSTOCK PARK MI 49321

Re: DC-17-00575
JOHN DUCA vs. C R ENGLAND, INC., et al

ALL COUNSEL OF RECORD/PRO SE LITIGANTS:
PLEASE TAKE NOTE OF THE FOLLOWING SETTINGS:

Jury Trial - Civil: 01/23/2018 @ 9:00 AM

Trial announcements **MUST BE MADE** in accordance with Rule 3.02, Local Rules of the Civil Court of Dallas County, Texas.

When **NO** announcement is made for defendant, defendant will be presumed ready. If **ANY** plaintiff fails to announce or to appear at trial, the case will be dismissed for want of prosecution in accordance with Rule 165a, Texas Rules of Civil Procedure.

Completion of discovery, presentation of pretrial motions, and other matters relating to the preparation for trial, are controlled by the Scheduling Order in this case or by the Texas Rules of Civil Procedure, in the event no Scheduling Order has been signed by the Court.

The Mediator may be selected by agreement of all parties. The parties must advise both the Court and the Mediator in writing of any agreed Mediator.

Please forward a copy of this notice to counsel of record for each party and all pro se parties by a method approved in Texas Rules of Civil Procedure 21a.

SINCERELY,

A handwritten signature in black ink, appearing to read "Staci Williams", written over a horizontal line.

STACI WILLIAMS
JUDGE, 101ST DISTRICT COURT
DALLAS COUNTY, TEXAS

pc: ANTHONY PERMODA; RYAN K. LEE; MICHAEL PAUL SHARP



101ST DISTRICT COURT
GEORGE L. ALLEN, SR. COURTS BUILDING
600 COMMERCE STREET
DALLAS, TEXAS 75202-4604

February 14, 2017

MICHAEL PAUL SHARP
THREE GRALLERIA TOWER
13155 NOEL RD SUITE 1000
DALLAS TX 75240

Re: DC-17-00575
JOHN DUCA vs. C R ENGLAND, INC., et al

ALL COUNSEL OF RECORD/PRO SE LITIGANTS:
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SINCERELY,

A handwritten signature in black ink, appearing to read "Staci Williams", with a long horizontal flourish extending to the right.

STACI WILLIAMS
JUDGE, 101ST DISTRICT COURT
DALLAS COUNTY, TEXAS

pc: ANTHONY PERMODA; RYAN K. LEE; MICHAEL PAUL SHARP



101ST DISTRICT COURT
GEORGE L. ALLEN, SR. COURTS BUILDING
600 COMMERCE STREET
DALLAS, TEXAS 75202-4604

February 14, 2017

RYAN K. LEE
702 N GOLIAD
ROCKWALL TX 75087

Re: DC-17-00575
JOHN DUCA vs. C R ENGLAND, INC., et al

ALL COUNSEL OF RECORD/PRO SE LITIGANTS:
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STACI WILLIAMS
JUDGE, 101ST DISTRICT COURT
DALLAS COUNTY, TEXAS

pc: ANTHONY PERMODA; RYAN K. LEE; MICHAEL PAUL SHARP

CRE.8243

CAUSE NO. DC-17-00575

JOHN DUCA	§	IN THE DISTRICT COURT
	§	
v.	§	101st JUDICIAL DISTRICT
	§	
C R ENGLAND, INC. and ANTHONY	§	
PERMODA	§	DALLAS COUNTY, TEXAS

DEFENDANT C.R. ENGLAND, INC.'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW **C.R. ENGLAND, INC.**, Defendant named in the above entitled and numbered cause, and files this its Original Answer, and for same would respectfully show unto the Court as follows:

I.

GENERAL DENIAL

Defendant denies each and every, all and singular, the material allegations contained within Plaintiff's pleadings and demands strict proof thereof.

II.

SECTION 18.091

Defendant invokes Section 18.091 of the Texas Civil Practice and Remedies Code. To the extent Plaintiff seeks recovery for loss of earnings, loss of earning capacity, loss of contributions of a pecuniary value or loss of inheritance, the evidence to prove such loss must be presented in the form of net loss after reduction of income tax payments or unpaid tax liability. Defendant further requests the court to instruct the jury as to whether any recovery for compensatory damages sought by Plaintiff is subject to federal or state income taxes.

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IV.

AFFIRMATIVE DEFENSES

Prior and/or Subsequent Injuries

Further answering, if same be necessary, and without waiving any of the matters hereinabove asserted, Defendant would show that Plaintiff's claims of physical and/or mental ailments in this cause were, in whole or in part, proximately caused solely and/or proximately by prior and/or subsequent accidents, events, or occurrences.

V.

JURY DEMAND

In accordance with Rule 216 of the Texas Rules of Civil Procedure, Defendant demands a trial by jury.

WHEREFORE, PREMISES CONSIDERED, Defendant **C.R. ENGLAND, INC.** prays that the Plaintiff take nothing by this suit, that Defendant go hence with its costs without

delay, and for such other and further relief, both general and special, at law and in equity, to which Defendant may show itself justly entitled.

Respectfully submitted,

FEE, SMITH, SHARP & VITULLO, L.L.P



MICHAEL P. SHARP

State Bar No. 00788857

msharp@feesmith.com

JASON A. BURRIS

State Bar No. 24049591

jburris@feesmith.com

Three Galleria Tower

13155 Noel Road, Suite 1000

Dallas, TX 75240

(972) 934-9100

(972) 934-9200 [FAX]

**ATTORNEYS FOR DEFENDANT
C.R. ENGLAND, INC.**

CERTIFICATE OF SERVICE

THIS WILL CERTIFY that a true and correct copy of the foregoing instrument has been mailed, telecopied or hand delivered to all attorneys of record in this cause of action on the 9th day of February, 2017 as follows:

Via www.efile.txcourts.gov

G. David Smith
Ryan K. Lee
Smith & Lee, Lawyers
70 N. Goliad
Rockwall, TX 75087



MICHAEL P. SHARP

FORM NO. 353-4—CITATION
THE STATE OF TEXAS

CERT MAIL (COH)

To: ANTHONY JAMES PERMODA
BY SERVING THE CHAIRMAN OF THE TEXAS TRANSPORTATION COMMISSION
125 E 11TH STREET
AUSTIN TX 78701-2483

CITATION

No.: **DC-17-00575**

JOHN DUCA
VS.
C R ENGLAND, INC., ET AL

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Your answer should be addressed to the clerk of the **101st District Court** at 600 Commerce Street, Dallas, Texas 75202.

Said **PLAINTIFF** being **JOHN DUCA**

ISSUED
ON THIS THE 31ST DAY OF JANUARY,
2017

Filed in said Court 13th day of January, 2017 against

C R ENGLAND, INC. AND ANTHONY PERMODA

For suit, said suit being numbered **DC-17-00575** the nature of which demand is as follows:

Suit On **MOTOR VEHICLE ACCIDENT** etc.

as shown on said petition **REQUEST FOR DISCLOSURE**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By **KERRY KALLIE**, Deputy

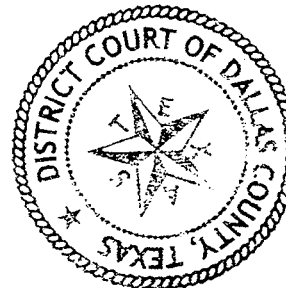
WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.

Given under my hand and the Seal of said Court at office on **this the 31st day of January, 2017**

ATTEST: FELICIA PITRE

Clerk of the District Courts of Dallas, County, Texas

By Kerry Kallie, Deputy
KERRY KALLIE



Attorney for : Plaintiff
RYAN K. LEE
702 N GOLIAD
ROCKWALL TX 75087
972 771-2579

DALLAS COUNTY CONSTABLE

**FEES
PAID**

**FEES NOT
PAID**

**OFFICER'S RETURN
FOR INDIVIDUALS**

Cause No. DC-17-00575

Court No: 101st District Court

Style: JOHN DUCA

vs.

C R ENGLAND, INC., et al

Received this Citation the _____ day of _____, 20____ at _____ o'clock. Executed at _____, within the County of _____, State of _____, on the _____ day of _____, 20____, at _____ o'clock, by _____ delivering to the within named _____ each in person, a copy of this Citation together with the accompanying copy of Plaintiff's original petition, having first indorsed on same the date of delivery.

-----000000-----

**OFFICER'S RETURN
FOR CORPORATIONS**

Received this Citation the _____ day of _____, 20____ at _____ o'clock ____ M. Executed at _____, within the County of _____, State of _____, on the _____ day of _____, 20____, at _____ o'clock ____ M. by summoning the within named Corporation, _____ by delivering to _____
President - Vice President - Registered Agent - in person, of the said _____

a true copy of this citation together with the accompanying copy of Plaintiff's original petition, having first indorsed on same the date of delivery.

-----000000-----

The distance actually traveled by me in serving such process was _____ miles and my fees are as follows:

To certify which witness by my hand.

For Serving Citation \$ _____
For Mileage \$ _____
For Notary \$ _____
Total Fees \$ _____

Sheriff _____
County of _____
State of _____
By _____

(Must be verified if served outside the State of Texas)

State of _____

County of _____

Signed and sworn to me by the said _____ before me this _____
day of _____, 20____, to certify which witness my hand and seal of office.

Seal

State & County of _____

**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

To: C R ENGLAND, INC.
BY SERVING ITS REGISTERED AGENT, C. T. CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS, TEXAS 75201-3136

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **101st District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **JOHN DUCA**

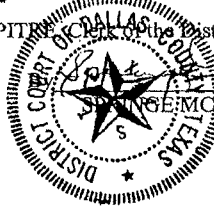
Filed in said Court **13th day of January, 2017** against

C R ENGLAND, INC. AND ANTHONY PERMODA

For Suit, said suit being numbered **DC-17-00575-E**, the nature of which demand is as follows:
Suit on **MOTOR VEHICLE ACCIDENT** etc. as shown on said petition, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 30th day of January, 2017.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas



Springe Mckinley, Deputy

ATTY

CITATION

DC-17-00575-E

JOHN DUCA

vs.

C R ENGLAND, INC., et al

**ISSUED THIS
30th day of January, 2017**

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By: **SPRINGE MCKINLEY**, Deputy

Attorney for Plaintiff
RYAN K. LEE
702 N. GOLIAD
ROCKWALL, TEXAS 75087
972-771-2579

DALLAS COUNTY COMPTROLLER
FEES PAID **FEES NOT PAID**

OFFICER'S RETURN

Case No. : DC-17-00575

Court No. 101st District Court

Style: JOHN DUCA

vs.

C R ENGLAND, INC., et al

Came to hand on the _____ day of _____, 20_____, at _____ o'clock _____ M. Executed at _____,
within the County of _____ at _____ o'clock _____ M. on the _____ day of _____,
20_____, by delivering to the within named

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by
me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

For serving Citation	\$ _____	_____
For mileage	\$ _____	of _____ County, _____
For Notary	\$ _____	By _____ Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said _____ before me this _____ day of _____, 20_____,
to certify which witness my hand and seal of office.

Notary Public _____ County _____

CAUSE NUMBER (FOR CLERK USE ONLY): DC-17-00575 COURT (FOR CLERK USE ONLY): 101STSTYLED JOHN DUCA v. C R ENGLAND, INC. and ANTHONY PERMODA

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet: Name: <u>Ryan K. Lee</u> Email: <u>ryan@smithandlee.com</u> Address: <u>702 N. Goliad</u> Telephone: <u>972.771.2579</u> City/State/Zip: <u>Rockwall, Texas 75087</u> Fax: <u>972.771.0513</u> Signature: <u>[Signature]</u> State Bar No: <u>24070129</u>		Names of parties in case: Plaintiff(s)/Petitioner(s): <u>John Duca</u> Defendant(s)/Respondent(s): <u>C R England, Inc. and Anthony Permoda</u> [Attach additional page as necessary to list all parties]		Person or entity completing sheet is: <input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____ Additional Parties in Child Support Case: Custodial Parent: _____ Non-Custodial Parent: _____ Presumed Father: _____					
2. Indicate case type, or identify the most important issue in the case (select only 1):									
Civil			Family Law						
Contract <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____ Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____		Injury or Damage <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input checked="" type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____		Real Property <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____ Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____		Marriage Relationship <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children Other Family Law <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____		Post-judgment Actions (non-Title IV-D) <input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order Parent-Child Relationship <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____	
Employment <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____		Other Civil <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____							
Tax <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax		Probate & Mental Health Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____							
3. Indicate procedure or remedy, if applicable (may select more than 1):									
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover					
4. Indicate damages sought (do not select if it is a family law case): <input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input checked="" type="checkbox"/> Over \$100,000 but not more than \$200,000 <input type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000									

Instructions for Completing the Texas Civil Case Information Sheet

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing. If the original petition, application or post-judgment petition or motion is e-filed, the case information sheet must not be the lead document.

This sheet, required by Rule 78a of the Texas Rules of Civil Procedure, is intended to collect information that will be used for statistical and administrative purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

The attorney or self-represented (*pro se*) plaintiff/petitioner filing the case or post-judgment petition or motion should complete the sheet as follows:

1. Contact information

a) **Contact information for person completing case information sheet.** Enter the following information:

- name;
- address;
- city, state, and zip code;
- email address;
- telephone number;
- fax number, if available;
- State Bar number, if the person is an attorney; and
- signature. (*NOTE: When a case information sheet is submitted electronically, the signature may be a scanned image or "/s/" and the name of the person completing the case information sheet typed in the space where the signature would otherwise appear.*)

b) **Names of parties in the case.** Enter the name(s) of the:

(*NOTE: If the name of a party to a case is confidential, enter the party's initials rather than the party's name.*)

- plaintiff(s) or petitioner(s);
- defendant(s) or respondent(s); and
- in child support cases, additional parties in the case, including the:
 - custodial parent;
 - non-custodial parent; and
 - presumed father.

Attach an additional page as necessary to list all parties.

c) **Person or entity completing sheet is.** Indicate whether the person completing the sheet, or the entity for which the sheet is being completed, is:

- an attorney for the plaintiff or petitioner;
- a *pro se* (self-represented) plaintiff or petitioner;
- the Title IV-D agency; or
- other (provide name of person or entity).

2. Case type.

Select the case category that best reflects the most important issue in the case. *You must select only one.*

3. Procedure or remedy.

If applicable, select any of the available procedures or remedies being sought in the case. You may select more than one.

4. Damages sought.

Select the damages being sought in the case:

(*NOTE: If the claim is governed by the Family Code, do not indicate the damages sought.*)

- only monetary relief of \$100,000 or less, including damages of any kind, penalties, costs, expenses, pre-judgment interest and attorney fees;
- monetary relief over \$100,000 or less and non-monetary relief;
- monetary relief over \$100,000 but not more than \$200,000;
- monetary relief over \$200,000 but less than \$1,000,000; or
- monetary relief over \$1,000,000.

1: CIT/COI-CERT_MAIL

David Hernandez

CAUSE NO. DC-17-00575

JOHN DUCA

Plaintiff,

v.

C R ENGLAND, INC. and ANTHONY
PERMODA

Defendants

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§
§

IN THE DISTRICT COURT

____ JUDICIAL DISTRICT

OF DALLAS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

I.

DISCOVERY LEVEL

1. Discovery in this case is intended to be conducted under Level 3 of Rule 190 of the Texas Rules of Civil Procedure or as prescribed by the court. This case involves a controversy in which monetary damages in excess of \$100,000.00 and less than \$1,000,000.00 are sought. Pursuant to Tex. R. Civ. P. 47, Plaintiff pleads alternatively for damages in the amounts specified in Rule 47 (c) (3) and (4).

II.

PARTIES

2. Plaintiff, John Duca, is an individual who resides in Rockwall, Rockwall County, Texas.

3. Defendant C R England, Inc. is a corporation engaged in the trucking and transportation business whose principle place of business is in Salt Lake City, Utah, but who is registered with the Texas Secretary of State and does business in Dallas, Dallas County Texas, and

may be served with process by serving its registered agent in Texas: CT CORPORATION SYSTEM, 1999 Bryan St., Suite 900, Dallas, Texas 75201-3136.

4. Defendant Anthony James Permoda is a non-resident of the State of Texas. This case arises from the operation of a motor vehicle by Defendant Permoda while acting as an employee of Defendant C R England, Inc. Service upon Defendant Permoda should be made in compliance with *Tex. Civ. Prac. & Rem. Code §17.061 et seq.* The clerk is hereby requested to issue citation and process of this case to the chairman of the Texas Transportation Commission as agent for Defendant Permoda in accordance with *Tex. Civ. Prac. & Rem. Code §17.061 et seq.* In turn, the chairman shall deliver a copy of the process along with notice that process has been served upon him to Defendant Permoda pursuant to said statute. Said notice by the chairman is to be sent via registered or certified mail, return receipt requested. The clerk is directed to issue citation and process pursuant to *Tex. R. Civ. P. 103 and 106* to the chairman at the following address:

Ted Houghton, Chairman
Texas Transportation Commission
125 E. 11th Street
Austin, Texas 78701-2483

The chairman, in turn, is to deliver process to Defendant Permoda at the following address:

Anthony James Permoda
3966 Yorkland Dr. NW 7
Comstock Park, MI 49321

III.

JURISDICTION AND VENUE

5. This court has jurisdiction over this cause because the amount in controversy exceeds the minimal jurisdictional limits of this Court. Venue is proper in Dallas County because all or a substantial part of the events giving rise to this cause of action occurred in Dallas County.

IV.

FACTUAL BACKGROUND

6. On January 21st, 2015 Plaintiff John Duca was traveling East on Interstate 30 in Dallas Texas in the far left lane. Anthony James Permoda entered I-30 from Mr. Duca's left from the High Occupancy Vehicle (HOV) lane. Mr. Permoda, distracted by his GPS device, did not see the Mr. Duca traveling in the far left lane, merged into the far left lane of I-30 from the HOV lane and struck the left side of Mr. Duca's vehicle. This collision caused Mr. Duca's vehicle to spin around toward the retaining wall, damaged Mr. Duca's vehicle, and caused injury to Mr. Duca.

7. At all times relevant hereto, Mr. Permoda was acting in the course and scope of his employment and/or agency relationship with C R England, Inc.

V.

CLAIMS

NEGLIGENCE

8. Plaintiff incorporates the preceding paragraphs as if set forth here at length.

9. The occurrence made the basis of this suit, referred to above, and the resulting injuries and damages, were proximately caused by the negligent conduct of Defendant Permoda, including by not limited to the following:

- a. Defendant Permoda failed to keep a proper lookout;
- b. Defendant Permoda failed to drive in a non-reckless manner pursuant to TEX. TRANS. CODE. ANN. §545.401;
- c. Defendant Permoda operated his vehicle in a High Occupancy Vehicle Lane with fewer than the required number or occupants in violation of TEX. TRANS. CODE. ANN. 453.0613;

- d. Defendant Permoda failed to change or merge lanes in a safe manner;
- e. Defendant Permoda failed to yield the right of way to oncoming traffic;
- f. Defendant Permoda operated his vehicle while using and distracted by a handheld or electronic device;
- g. Defendant Permoda failed to timely apply the brakes on his vehicle immediately prior to the collision in question.

10. The above acts or omissions, singularly or in combination with others, individually and collectively constituted negligence which proximately caused the collision and proximately caused the injuries and damages to Plaintiff as set forth more particularly hereinafter.

NEGLIGENCE PER SE

11. Defendant Permoda was negligent per se in violating one or more of the following particulars:

- a. Defendant Permoda failed to drive in a non-reckless manner pursuant to TEX. TRANS. CODE. ANN. §545.401;
- b. Defendant Permoda operated his vehicle in a High Occupancy Vehicle Lane with fewer than the required number of occupants in violation of TEX. TRANS. CODE. ANN. 453.0613;

12. The above enumerated acts and omissions, singularly or in combination with others, individually and collectively constituted negligence per se which proximately caused the collision and proximately caused the injuries and damages to Plaintiff as set forth more fully below.

NEGLIGENCE OF C R ENGLAND, INC.

13. Defendant C R England, Inc. had a duty to protect the Plaintiff and other drivers from harm caused by its vehicles. Specifically, C R England, Inc. had a duty to train and instruct the drivers of its vehicles on how to operate the vehicles in a safe and prudent manner. Defendant C R England, Inc. failed to train Defendant Permoda on safe operation and use of the vehicle. Such failures were a proximate cause of the collision described above and the damages that resulted therefrom.

VI.

AGENCY/RESPONDEAT SUPERIOR

14. Defendant C R England, Inc. is vicariously liable for the torts of an employee committed in the course of his employment. As Defendant Permoda was operating his vehicle in the course and scope of his employment with Defendant C R England, Inc., it is liable for Defendant Permoda's negligent conduct.

VII.

DAMAGES

15. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff sustained damages. These included injuries that are, in reasonable probability, permanent in nature. These damages are as follows:

- a. Plaintiff John Duca incurred reasonable and necessary medical expenses in the past and can reasonably be expected to incur future medical costs for the necessary treatment of his injuries he sustained in the collision;

- b. Plaintiff John Duca experienced physical pain and mental anguish in the past as a result of his physical injuries and, in all reasonable probability, will sustain physical pain and mental anguish in the future as a result of his physical injuries; and
- c. Plaintiff John Duca experienced a loss of wages due to the incapacity caused by his injuries.

VIII.

REQUESTS FOR DISCLOSURE

16. Pursuant to Tex. R. Civ. P. 194, each Defendants named herein are requested to disclose to Plaintiff, no later than fifty (50) days of service of this request, the information or material described in Rule 194.2.

PRAYER

17. WHEREFORE, PREMISES CONSIDERED, the Plaintiff requests that, after service of the Citation and Petition in this cause, the Defendants appear and answer herein, and upon final trial, the Plaintiff recover his actual damages, special damages, costs of court, and pre-judgment and post-judgment interest together with such other and further relief to which it may be justly entitled.

Respectfully Submitted,
SMITH & LEE, LAWYERS

By: 
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Attorneys for Plaintiff